

Notice of Allowability

Application No.

10/060,142

Examiner

Sherman D. Basinger

Applicant(s)

MELIUS, JOHN DAVID

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to the amendment filed September 30, 2004.
2. ☒ The allowed claim(s) is/are 21-25,27,28 and 35-39.
3. ☒ The drawings filed on 12/23/02&9/30/04 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).**
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413), Paper No./Mail Date _____
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____

EXAMINER'S AMENDMENT

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

The application has been amended as follows:

The following inadvertent errors have been corrected.

In claim 21, line 1 "a swim fin" has been changed to –A swim fin–.

The following claim has been canceled.

Claim 24. (previously presented) The swim fin apparatus of claim 21, wherein said swim fin apparatus has a rigid forebody comprising said foot-pocket with a shaped insole and said channeling scoops, a flexible afterbody comprising said flexible blade and a symmetrical wing-like tail fin and whereby the shaped insole interfaces with the user's foot to assist in walking and swimming and the rigid forebody preferably comprises 40 percent to 80 percent of the length of the swim fin apparatus.

Applicant presented two claims 24, one previously presented and one currently amended. As indicated above the previously presented claim 24 has been canceled.

The amendment filed September 30, 2004 to the paragraph on page 11, line 12 of the substitute specification filed December 23, 2002 has been made to the paragraph on page 10, line 12.

The amendment filed September 30, 2004 to the paragraph beginning on page 36 of the substitute specification filed December 23, 2002 has been made to the paragraph on page 36, lines 5-13.

2. The following is an examiner's statement of reasons for allowance:

Claim 21 and the claims depending therefrom are allowed because none of the art of record taken alone or in combination suggest or fairly teach the swim fin apparatus defined in claim 1 comprising "c) opposing channeling scoops positioned on opposite sides of the foot-

pocket, said channeling scoops positioned to channel water during the up-stroke and the down-stroke of the swim fin apparatus;

d) a flexible blade extends beyond the foot-pocket, to a distal end positioned on the longitudinal axis of the swim fin apparatus, and a tail fin is attached; and

e) the flexible blade further comprising a curved trailing edge, and the tail fin comprising a complimentary curved leading edge positioned in spaced, complimentary alignment with the curved trailing edge of the flexible blade,

whereby water flowing across the flexible blade passes over the wing-like tail fin to produce additional lift and thrust."

Claim 35 and the claims depending therefrom are allowed because none of the art of record taken alone or in combination suggest or fairly teach the swim fin of claim 35

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comprising "c) opposing curved channeling scoops positioned on opposite sides of the foot

pocket; said channeling scoops positioned to channel water during the up-stroke and the down-stroke of the swim fin apparatus, said curved channeling scoops upwardly inclined from proximity to the user's toes to proximity to the user's heel;

d) a flexible blade extending from the foot pocket, the flexible blade with an inclined trailing edge extending on each side of the longitudinal axis of the swim fin apparatus; and

e) a tail fin with an inclined leading edge in spaced alignment in relation to the inclined trailing edge of the flexible blade; whereby water flowing across the flexible blade passes over the tail fin, to increase lift and thrust."

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."


3. The replacement sheet of drawings filed September 30, 2004 has been approved.

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sherman D. Basinger whose telephone number is 703-308-1139. The examiner can normally be reached on M-F (6:00-2:30 ET).

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Samuel J. Morano can be reached on 703-308-0230. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Sherman D. Basinger
Primary Examiner
Art Unit 3617
10/1/04

Sdb
11/1/04